

APPROVED: Meeting No. 35-80

ATTEST:

Helen M. Heneghan

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 32-80

August 11, 1980

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, at 8:00 p.m on Monday, August 11, 1980.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen M. Heneghan; Assistant City Manager Daniel Hobbs; City Attorney Roger Titus; Assistant City Attorney Frank Lacey; Director of Finance John Lawton; Director of Budget Anna Lee Berman; Director of Planning James M. Davis; Director of Public Works Robert Goodin; Director of Community Development and Housing Assistance Douglas Horne; Chief of Police Jared Stout.

Re: City Manager's Report

Mr. Blick reported the following:

1. The Storm Water Management Facility is almost complete at Maryvale. Gabions, a new bridge and hydro-seeding have been installed.
2. The City is keeping daily watch on the First Street construction for the B&O railroad. They are now working on abutments.

Mayor Hanna noted the flags on the Council's table that are a gift from the City of College Park presented by City Clerk Miriam Wolf at the end of the Institute of Local Government held at the University of Maryland. John Freeland, President of the Maryland Municipal League, presented a resolution in support of the Institute to the University of Maryland.

Re: Approval of Resolution: To Authorize opening of a collection account with the Savings Bank of Baltimore

Resolution No. 20-80

On motion of Councilman Freeland, duly seconded and unanimously passed, Resolution No. 20-80, the full text of which can be found in Resolution Book No. 7 of the

Mayor and Council, authorizing a collection account in the Bank of Baltimore, was approved by the Mayor and Council.

Re: Selection of Engineering Firm for
design of Carnation Drive, Rockingham
Park and Research Park Storm Water
Management Facilities

The three projects are located at separate sites on the west side of the City as indicated by the project names. The projects have been authorized for design and construction by the Mayor and Council with all costs to be charged against the Storm Water Management Contribution account, which contains sufficient funds to defray all costs.

The projects are as follows:

1. Carnation Drive
2. Rockingham Park
3. Research Park

The construction costs will be estimated later, based on the design concepts adopted by the Mayor and Council, but would probably fall in the range of \$100,000 each.

The consultant selection criteria emphasized the importance of a creative approach to the design concept which would blend a functional SWM facility with the aesthetic, artistic and/or recreational objectives of the affected community. The ability of the individual firm to fulfill the design requirements of the empoundment criteria was much easier to evaluate than their ability to meet the aesthetic/recreational objectives.

The names of the various firms which submitted proposals, along with their prices are as follows:

Firm	Carnation	Rockingham	Research	Combined
Loiederman Associates	\$16,775	\$15,125	\$12,850	\$39,000
Hayes, Seay Mattern & Mattern	16,300	17,400	16,100	48,000
Johnson McCordic & Thompson	16,500	16,500	16,000	49,000
Greenhorne & O'Mara	19,000	18,150	19,300	50,450
PRC Toups	17,170	18,405	17,919	53,490
Dewberry Nealon & Davis	24,500	23,700	19,600	67,800
Kidde Consultant	26,661	26,661	25,141	78,460

The selection process in effect prequalified, relative to Engineering and SWM design capabilities, each of the firms which were invited to submit proposals. Except for the capability of a specific firm to undertake all three projects simultaneously, the controlling final selection factor for the SWM design aspect alone boiled down to price. The final selection then would rest on the committee's evaluation of the capability of each firm to satisfy the creative/aesthetic requirements of the projects, balanced against the proposed fee.

During the review process the committee concluded that the utilization of more than one firm would lend a desirable creative diversity to the landscaping and aesthetic concepts. The individual interviews proved to be of substantial value to the committee by providing an insight into the creativity and conceptional direction of the individuals who would be responsible for the design effort.

Based on this approach the ratings by the committee eliminated all except three firms, Loiederman, J.M. & T. and PRC Touns. Of these three firms the committee rated Loiederman Associates highest on Research and Rockingham and J.M. & T. highest on Carnation.

It is the committee's recommendation that the City award the Carnation project to J.M. & T. in the amount of their proposal of \$16,500. It is further recommended that Loiederman Associates, Inc. be awarded the Research and Rockingham projects in the amounts of their proposals of \$12,850 and \$15,125.00 respectively.

Robert Goodin, Director of Public Works, highlighted the information for the Council and explained the procedure and selection process which stressed the capability of each firm to satisfy the requirements of the project balanced against the proposed fee.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the Council approved the selection of Johnson, McCordic & Thompson in the amount of \$16,500 for the Carnation project and Loiederman Associates Corporation in the amount of \$12,850 and \$15,125 for the Research and Rockingham projects respectively.

Re: Resolution: To Deny Text Amend-
ment Application, T-28-80, Fordham
Development Corporation, Applicant

Resolution No. 21-80

On motion of Councilman Tyner, duly seconded and unanimously passed, Resolution No. 21-80, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, denying text amendment application, T-28-80 was adopted by the Mayor and Council.

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Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Residents of Pipestem Place re vehicle turnaround
The Council asked for more information from the City Manager on this problem. The City Manager explained that when the sub-division was originally built, Mr. Kettler, the developer, endeavored to purchase right-of-way to complete the turnaround but could not at that time and as a result the road ended in a stub. There has been a problem with snowplows and emergency vehicles turning around in the area during the eight years the road has been in place. Kettler now has the right-of-way and was about to proceed with the turnaround. The fact of neighborhood resistance is news to staff so they will talk to the neighborhood and see how it can be resolved. The Mayor reiterated the Council's past policy of no streets being left that are not built to specification.
2. Montgomery County re CDBG
3. HUD re CDBG
Councilwoman Fordham noted that there are some good suggestions in the HUD report on the block grant operation. She asked that a letter be forwarded to them explaining that although renovation funds for rental units were available, the property owners were not interested. She thought if HUD has better information they might possibly offer a solution to the problem. Mayor Hanna said he asked that question at the Secretarial level and they did not know how it could be accomplished.
4. Delegate Simmons re Falls Road Interchange

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. Rev. Mansfield Kaseman. Rev. Kaseman spoke to the Council concerning Chapter 21, Condominium Legislation and cautioned that the ordinance may be placing the cart before the horse in adopting legislation prior to dealing with the housing question in general. However, he noted it might be just as well to adopt the legislation now in order to have something on the books and then refine it later. He said he is quite concerned with the needs of the elderly and handicapped and extending the rental period by 180 days without rent control will not help them. Mayor Hanna said that particular item was addressed during the Mayor and Council's work session and State law governs that particular problem.

2. An unidentified citizen told the Council that State law says one thing and City law says another and together they are precluding him

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from putting a business in his home. Mr. Davis, Director of Planning, explained the difference in the requirements under State and City ordinances for operating beauty culture in a residential area. The Mayor asked the citizen to write to the City and explain the problem and perhaps the City Attorneys could work with him to solve the problem.

There being no other citizen wishing to be heard, the Mayor closed the Citizen's Forum portion of the meeting.

Re: Decision: Construction of
Research Boulevard

Councilman Tyner moved, duly seconded, that the City Attorney be instructed to draft an ordinance moving ahead with the construction of Research Boulevard with before and after appraisals while at the same time getting a definitive word on the farm land assessment question. The City Manager suggested that the ordinance declare the intention of developing such a mechanism. He said the Mayor and Council should ask the City Attorney if reference should be in the project ordinance. At the same time he asked a time schedule for amendments to the ordinance and the Charter. The City Attorney said it is not necessary to incorporate that language into the ordinance since assessments are not levied for a good number of years. The City Manager said with good luck the project could be completed in the fall of 1981 so the special assessments would not be ready until the spring of 1982. Councilman Tyner said unless the intent of the Council is specified he would not favor moving ahead with the construction of the road. He has no intention of driving a working farm out of production. Mayor Hanna said prior to any assessment the Mayor and Council approve a special assessment policy relevant to the project so that can be handled. Councilman Freeland asked if it would be reasonable to inform the property owners of tonight's Council action. Mayor Hanna said it is most appropriate.

Councilman Tyner's motion was unanimously approved.

Re: Decision: Construction of Gude Drive

Councilman Freeland moved, duly seconded that the City Attorney be instructed to draft an ordinance to move ahead with the project with its present alignment. Councilwoman Fordham asked the City Manager to submit the information he had gathered to the Council on the cost of saving trees and the cost of additional noise attenuation devices. The City Manager reported the following information:

Road as Planned

Berm: 4,000 feet @ \$80/ft.		\$320,000
Landscaping: Crown Vetch	\$40,000	
Double Row of Pines	60,000	
Other landscaping materials	<u>60,000</u>	
	\$160,000	<u>\$160,000</u>
		480,000
Alternative A: Shift Road 215 feet		\$2,624,000 additional
Alternative B: Install Barrier Wall where Trees Exist.		
3,000 ft. of barrier wall @ \$320/ft.		960,000 additional
(difference between wall and berm is \$400/ft. less \$80/ft.)		

Councilwoman Fordham said the wall should be included as a noise attenuation device. Any place existing trees can be saved it should be done but a combination of wall and berm with landscaping near the wall should be provided. She asked the Council to agree to add \$960,000 to the project to handle these things. She asked Kidde Consultants, present in the audience, if a wall and berm are equally effective to stifle noise and what the danger is to the existing trees if a wall is built. A Kidde representative said he cannot answer the question on the danger to the trees without looking at the trees themselves; however, there could be a problem with surface roots on maple and red oak trees since they are most sensitive to manipulation. He said it has been the experience of his firm that low profile walls do not cut down on noise volume. Councilman Freeland urged the Council to go with the decision on building the road with the intention that the best combination possible will be worked out by the staff. He said it would be impossible for the Mayor and Council to come up with a solution on design this evening since they are inexperienced in that field. He asked that the staff work with the neighborhood and the engineers on the project. He said he was not even interested in putting a price tag on it until all the facts are known and recommendations are brought forward on what would be best for all. He asked the Mayor and Council to join him in instructing the staff to bring about a meaningful solution to the berm/wall effect.

Councilwoman Fordham moved, duly seconded, the motion be amended to include a new alignment with the minimum 215 foot shift. She said changing the alignment this way may add only another year to the project.

Councilman Tyner asked staff if any shift would make a difference on the noise or the cosmetics. The representative from Kidde Consultants said a 215 foot shift will still call for noise attenuation devices. Councilman Tyner concluded that he would have difficulty in spending an additional \$2.6 million for a minor shift. Mr. Lacey, Assistant City Attorney, explained that Councilwoman Fordham's amendment may be out of order since a change in the location of the road would call for an additional public hearing. The gentlemen from Kidde Consultants said there are many questions being asked that Kidde is not in a position to answer since their direction from staff was to design the present alignment; therefore, they are not familiar with the new alignment or the problems there could be. Councilwoman Fordham said it is most important that attention be given to landscaping, noise attenuation devices to bring about as little noise as possible and the salvaging of the present trees. Councilman Tyner suggested that all of Councilwoman Fordham's instructions be included in the ordinance and then they can be voted up or down at the time the ordinance is adopted. Councilwoman Fordham said her approval would be contingent on the staff and the consultant taking all steps necessary to preserve trees, to add noise attenuation devices and landscaping to do buffering in costs up to an additional \$960,000. Councilman Freeland disagreed. He said he would entertain any reasonable proposition to preserve the neighborhood and reduce the impact. He would hope that the staff would move into the neighborhood and work out with them what is reasonable and feasible. He urged the Council to turn this project over to the people who can technically deal with the problem and not try to do it themselves. Councilman Tyner said the Planning Commission's recommendation should be included with the staff's instructions. Mayor Hanna said he is in agreement with Councilman Freeland when he asks that the project be reasonable. Councilwoman Fordham said she disagrees with reasonable since she has no idea what it means. Councilman Abrams suggested that now would be the time to work with the neighborhood and get their input to determine exactly what is reasonable for the project.

Mayor Hanna said that the Mayor and Council had received an alternative plan from the College Gardens neighborhood that was studied by the City staff and studied by the Mayor and Council and each Councilmember had come to his own conclusion in supporting the plan. Since Montgomery County's cost was substantial, the Mayor met with the County Executive concerning the funding. The County Executive said it was the City's prime concern but he would seek an emergency appropriation from the County Council if the City found it necessary. The Mayor stressed that the City is making the decision and all political liabilities are with the City, not Montgomery County. At no time will the City use the County to hide behind. Councilwoman Fordham said she would expect Montgomery County to certainly share the cost of landscaping.

Councilman Freeland's motion to build Gude Drive in its present alignment was unanimously approved by the Council.

The City Manager reminded the Council of the decision on whether a bridge or a tunnel should be constructed to deal with Rt. I-270.

On motion of Councilman Freeland, duly seconded and unanimously passed, the Council agreed to an overpass at the I-270 intersection because of costs.

Mr. Goodin recommended the two phase construction plan to the Council with the first phase comprising of Piccard Drive to Rt. 355 and beginning four months earlier. Phase II would be completed by December 1983, one year after the completion of Phase I.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Council agreed to the two phase proposal. Councilman Freeland suggested that the staff pursue an incentive contract for completion on time. Councilwoman Fordham disagreed on the grounds that the City may get an inferior product.

Councilman Freeland moved, duly seconded, the City Manager work with the appropriate people to study the feasibility of and develop an incentive type contract on time and on cost. The motion was approved with only Councilwoman Fordham voting nay.

Re: Receipt of Annual Report of the
Planning Commission

Allen Pritchard, Chairman of the Planning Commission for the past three years, presented the Council with the Planning Commission's Annual Report and highlighted the year. Copies of the report are available at City Hall. Mayor Hanna expressed the deep appreciation of the Mayor and Council for Mr. Pritchard's personal involvement and the personal involvement of the members of the commission.

Re: Adoption of Ordinance: To
Enact a new Chapter 21 of the
"Laws of Rockville", entitled
Condominiums

Ordinance No. 25-80

The Council discussed the condominium ordinance -- what it does and what it does not do. The Council agreed it would not extend to new construction since this would be included in the building ordinances. Councilman Freeland again mentioned the whole housing issue and how it must be studied.

Councilman Freeland moved, duly seconded, that the title of the ordinance be changed to read "Condominium Conversion Ordinance". The motion was approved. Councilmembers Fordham and Abrams voting nay.

Councilman Abrams moved, duly seconded, that a new Section II be added ordering the developer to provide the City with the right of first refusal. The Council discussed this amendment and at the end of the discussion Councilman Abrams withdrew the amendment and Councilwoman Fordham withdrew her second. Councilwoman Fordham moved, duly seconded that the definition of handicapped be amended to read "any person who has suffered the loss or substantial impairment of a permanent life skill." Council was in general agreement that this ordinance will not cover all the things they wish to have covered but do hope it is a beginning.

On motion of Councilman Freeland, duly seconded and unanimously passed, the Mayor and Council all voting aye, Ordinance No. 25-80, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, creating a new Chapter 21 entitled "Condominium Conversion Legislation" was adopted by the Mayor and Council as amended.

Re: Information Items

The Mayor and Council noted the following items of information:

1. Copy of Town Center Newsletter
2. Memo from Director of Planning re Metro Plans
3. Memo re Summer Youth Employment Program
4. Letter requesting a "No Parking" area from 216 to 218 Upton Street
5. Memo re Status Report on Twinbrook Metro SWM Facilities
6. Memo from Director of Planning re Tax Impact on Homes in the O-1 and O-2 zones
7. Memo from Director of Public Works re Baltimore Road - Need for Guardrail
8. Letter from Montgomery County re Task Force to Study Child Care

9. The PEPCO Communicator re article on City's Energy conservation
10. Letter from DOT re First Street Extended Construction of B&O Bridge
11. Annual Report for Fiscal Year 1980

Re: New Business

Councilwoman Fordham suggested a date be set for the housing workshop. Mayor Hanna suggested October 18 and asked that Mrs. Fordham work with Mr. Horne on the tentative program and list of speakers.

Re: Executive Session

There being no further business to come before the Council in general session, the meeting was closed for executive session on motion of Councilman Abrams, to discuss litigation and property negotiations.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 12:20 a.m. to convene again in general session on Monday, August 18, 1980, at 8:00 p.m. or at the call of the Mayor.